REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

At the outset, Applicant thanks the Examiner for his discussion with the Applicant's representative on August 22, 2006. In that discussion, the Examiner and the Applicant's representative discussed the differences between the cited prior art and the present invention.

Claims 1-11 are now pending in this application. Claim 4 is herein amended.

In the outstanding Office Action, claims 1-11 were rejected under 35 U.S.C. § 103(a) as being obvious over JP- 2001-072764 (hereinafter "JP-'764"). Claim 4 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

Claims 1-11 were rejected as obvious over JP-'764. Applicant respectfully traverses this rejection as the Office has failed to state a prima facie case of obviousness.

Claim 1 is an independent claim from which claims 2-5 depend. Claim 1 is directed to a cosmetic material comprising a crosslinked product of poly-γ-glutamic acid and/or a crosslinked product of a poly-γ-glutamic acid salt. The crosslinked product has a particle size of 0.1 to 100 μm and an average particle size of 1 to 50 μm. Claim 6 is an independent claim from which claims 7-11 depend (directly or indirectly). Claim 6 is directed to a cosmetic material comprising an oiliness agent and a crosslinked product of poly-γ-glutamic acid and/or a crosslinked product of a poly-γ-glutamic acid salt as an oil dispersion modifier. The oiliness agent is selected from the group consisting of vegetable oils, higher alcohols or esters thereof, higher fatty esters and liquid paraffins. Thus, all of claims 1-11 include as an element the crosslinked product of poly-γ-glutamic acid and/or a crosslinked product of a poly-γ-glutamic acid salt.

The JP-'764 reference discloses a crosslinked polyamino acid used in cosmetics. The JP-'764 reference discloses the preferred use of polyaspartic acid as the backbone of the

polyamino acid, but lists polyglutamic acid and polylysine as alternatives. Applicants herein provide evidence, in the attached Declaration Under 37 C.F.R. §1.132, that the JP-'764 reference does not, in fact, teach the crosslinked product of poly-γ-glutamic acid or a crosslinked product of a poly-γ-glutamic acid salt sufficient to render the present invention obvious.

Applicant herein submits the Declaration of Hajime Ito, a research chemist at Idemitsu Kosan Co., Ltd., as evidence that the JP- '764 does not describe and enable the crosslinked product of poly-γ-glutamic acid or a crosslinked product of a poly-γ-glutamic acid salt with sufficient clarity and detail to establish that the subject matter was, indeed, in the prior art. In the Declaration, at paragraphs 4-8, the Declarant attempted to make crosslinked products using aspartic acid and glutamic acid raw materials with the method in the JP-'364 reference. The Declarant determined that the method of the JP-'364 reference resulted in crosslinked poly-aspartic acid formed from the aspartic acid raw material. However, the Declarant determined that the method of the JP-'364 reference did not result in crosslinked poly-γ-glutamic acid formed from the glutamic acid raw material.

In order to render a claimed invention obvious, the prior art must enable one skilled in the art to make and use the claimed invention. See *Rockwell Int'l Corp. v. United States*, 147 F.3d 1358, 1365 (Fed. Cir. 1998), attached as Exhibit A. In the present instance, in view of this declaration evidence, it is clear that the JP-'364 reference fails to enable the crosslinked poly-γ-glutamic acid in the presently claimed invention. Accordingly, Applicant respectfully requests withdrawal of the rejections of claim 1-11 as obvious over the JP-'364 reference and allowance of these claims.

Further, claim 3 of the present application is directed to the cosmetic material of claim 1, with the further limitation that the crosslinked product of poly-γ-glutamic acid or crosslinked product of a poly-γ-glutamic acid salt is produced by exposing at least one of an

aqueous solution, a methyl alcohol solution or an ethyl alcohol solution of poly-γ-glutamic acid or the poly-γ-glutamic acid salt which contain poly-γ-glutamic acid in an amount of 2 to 30% by mass, to radiation for crosslinking. Claim 4 depends from claim 3. Similarly, claim 9 is directed to the cosmetic material according to claim 6, with the same further limitation, *i.e.* that the crosslinked product of poly-γ-glutamic acid or crosslinked product of a poly-γ-glutamic acid salt is produced by exposing at least one of an aqueous solution, a methyl alcohol solution and an ethyl alcohol solution of poly-γ-glutamic acid or the poly-γ-glutamic acid salt which contain poly-γ-glutamic acid in an amount of 1 to 30% by mass, to radiation for crosslinking. Claim 10 depends from claim 9.

In the Declaration of Hajime Ito, the Declarant compared the oil dispersibility of crosslinked poly-γ-glutamic acid in which the crosslinking was effected by electron beam radiation, as in the present invention, with crosslinked poly-γ-glutamic acid in which the crosslinking was effected by prior art chemical methods. As can be seen in the attached photographs, the crosslinked poly-γ-glutamic acid produced by electron beam radiation showed a much greater dispersibility after standing for sixty hours. This proves that the present invention, as claimed in claims 3, 4, 9, and 10 is clearly novel, as the radiation crosslinking produces a different product. Accordingly, Applicants respectfully request the withdrawal of the rejections of claims 3, 4, 9, and 10.

Claim 4 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite. In response thereto, claim 4 is amended to correct the dependency. With such amendment, Applicant believes the rejection of claim 4 as indefinite is obviated, and respectfully request withdrawal of this rejection.

In light of the above discussion, the present application is believed to be in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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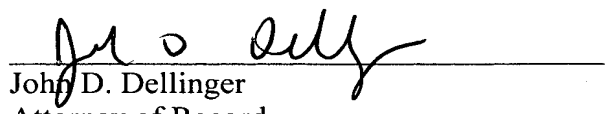

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